

REMARKS

Claim Rejection-35 USC §103

Claims 1-4, 6-9, 12-13, 15-16, 19-21, and 23 are rejected under 35 USC §103 as being unpatentable over Buser in light of Ellingson. Claims 3 and 11, 16, 17 are canceled. Claims 1, 4, 12, 14, 18, and 20 have been amended.

Claim 1 has been amended to recite a force sensor responsive to a force indicating an obstruction between the door and washing chamber. This limitation requires that the force sensed be "predetermined" and that the force sensor operate "to controllably stop inward movement of the door" to make it clear that the claims do not cover mechanical failure of the latch, where the force limiting is neither predetermined nor the stopping of the door done controllably.

Claim 1 has further been amended to indicate that the signal generated by the timer/controller indicates a time for "sealing" the door for washing, addressing the Examiner's concern about the clarity of this limitation. Support for these claim limitations are found, for example, in the description of force sensing in paragraph [0077] with respect to Fig. 6 and in the description of the timing signals in paragraph [0065] with respect to Fig. 9.

Claim 1 has been further amended to require a switch signal indicating proper closing of the door by the electric actuator. Support for this claim limitation is found in the description of switches 210 in Fig. 3 and switch 96 in Fig. 14.

Claim 12 has been amended to include limitations related to the detection of a properly engaged actuator and door and a lockout system for preventing washing in the event of closure malfunction.

Claim 20 has been amended to include the limitation that separate signals at different times are provided to the electric actuator for opening and closing of the door.

Claim Rejection-35 USC §103

Claim 1

With respect to the amended claims, it is respectfully submit that Buser fails to teach or disclose the now claimed specific structure required for a motorized gasket-

compressing door closure system incorporated into claim 1, specifically:

- (1) a timer/controller generating an electric signal sealing the door for washing;
- (2) an electric actuator sized and configured to compress the gasket through a force applied to the door by the electric actuator;
- (3) at least one switch providing a signal confirming engagement of the electric actuator and door;
- (4) operation of the timer controller to prevent washing prior to the occurrence of this confirming signal;
- (5) and a force sensor sensing a pre-determined force on the electric actuator resisting closure of the door by the electric actuator caused by an obstruction.

With respect to (1) and (4) it is respectfully submitted that "controller logic" must be given patentable weight in an apparatus claim under the well-established doctrine holding that a computer executing a stored program is considered apparatus defined by both the structure of the computer and its program. See *Diamond v. Diehr*, 450 U.S. 175, 200 (1981)(citing *In re Bernhart*, 417 F.2d 1395, CCPA 1969 (a computer programmed with a new program was physically different from the same computer without that program and that the programmed computer is a new machine).

With respect to (2) the Applicant respectfully submits that the Examiner's interpretation of Buser as teaching a motorized gasket compression system improperly relies on the disclosure of the present invention for inspiration and a person of ordinary skill in the art would not reach the conclusions arrived at by the Examiner. The Buser document does not describe or enable a motorized gasket compression system and the arrow relied upon by the Examiner indicates only a retraction of the motorized actuator after it has released the door.

Element (3) is not found in Buser nor does the Examiner contend otherwise.

As claim 1 has been amended, it is respectfully submit that Buser does not teach element (5), that of a "force sensor" which according to the plain and ordinary meaning of this phrase would not read on a device that reacted to excess force by failing. Applicant can find no description in Buser of force sensors of any kind and the Examiner is encouraged to provide a line citation to the Buser patent if the Applicant is mistaken.

The above deficiencies of Buser with respect to the amended claims are not remedied by Ellingson which describes a clothes washing machine without a gasket. While Ellingson does teach a switch indicating that the washing machine lid is closed, Ellingson teaches away from the use of this switch for detection of proper engagement between a door and a releasable retractor motor by describing a lid which is closed manually, without motorized assistance, and whose position is detected for the sole purpose of locking the lid to protect the user against high-force internal rotating machinery not found in a dishwasher. Accordingly a person of ordinary skill in the art considering the design of a dishwasher would not be led to incorporate Ellingson's switch.

In conclusion, the references of Buser and Ellingson even in combination fail to teach the elements of now amended claim 1.

Nor does the Applicant believe that modification of these references or their combination is proper absent a teaching suggestion or recognition in the prior art or elsewhere of the problems of gasket closure for high compliance dishwasher gaskets, particularly as compliance changes over time (see for example paragraph [0005] of the present invention), or the possibility of constructing a practical and safe motorized gasket compression system.

Claim 12

Claim 12 has been amended to include the limitation of a switch providing a signal indicating that the latch portions are engaged and the limitation of preventing the motor from movement until a door close signal and the engagement signals are both received.

Buser does not teach this switch nor does the Examiner suggest otherwise. Ellingson teaches a switch for detection of the door in what would be the seal position (even though there is no sealing) after it has been manually closed, the motivation being to protect the user against the spin basket. This motivation is not present for dishwashers of the present invention and thus there would be no motivation to make the combination proposed by the Examiner either under the terms of Buser or Ellingson.

Claim 20

Claim 20 has been amended to indicate that the door actuator responds to two separate signals from the timer/controller specifically related to opening and closing the door at particular times. None of the references teach a timer/controller providing two different signals at distinctly different times that are responded to separately by an electric door actuator.

With these amendments, it is submitted that independent claims 1, 12, and 20 are allowable and therefore that claims 1-2, 4-10, 12-13, 15, 18-21, and 23-27 are now in condition for allowance and allowance is respectfully requested..

Very truly yours,

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